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***Attorneys for Plaintiffs*****UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**CHASOM BROWN, WILLIAM BYATT,  
JEREMY DAVIS, CHRISTOPHER  
CASTILLO, and MONIQUE TRUJILLO  
individually and on behalf of all other similarly  
situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

**SUSMAN GODFREY L.L.P.**

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Case No.: 4:20-cv-03664-YGR-SVK

**CONSOLIDATED DECLARATION OF  
LEAD COUNSEL ISO PLAINTIFFS'  
UNOPPOSED MOTION FOR FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Judge: Hon. Yvonne Gonzalez Rogers

Date: July 30, 2024

Time: 2:00 p.m.

Location: Courtroom 1 – 4th Floor

**CONSOLIDATED DECLARATION ISO PLAINTIFFS' UNOPPOSED MOTION FOR  
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

David Boies, Bill Carmody, and John Yanchunis declare as follows:

1. As the leaders of the Class Counsel team, we make this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement (the "Motion").

2. We have personal knowledge of the matters addressed in this declaration, including the many months of negotiations that culminated in the proposed settlement ("Settlement"). If called as a witness to testify, any of us could and would testify competently to the following facts.

3. We have each led some of the country's most complex civil litigation cases—including class actions—and we have been recognized by courts and national publications for our knowledge and experience.

4. For the Court's consideration with the Motion regarding the Settlement, we briefly summarize our qualifications and explain why this settlement is an excellent result for the certified classes that meets and exceeds all applicable requirements.

**1. Relevant expertise.**

5. **David Boies**: Mr. Boies has been the Chairman and a Managing Partner of Boies Schiller Flexner LLP ("BSF") since its founding in 1997, is a member in good standing of the bar of the State of New York, and admitted *pro hac vice* for this case. Dkt. 22. Mr. Boies has been selected as one of the 100 Most Influential People in the World by Time Magazine (2010). He has been named Global International Litigator of the Year by *Who's Who Legal* an unprecedented seven times. Mr. Boies has been named the Litigator of the Year by *The American Lawyer*; the Lawyer of the Year by *The National Law Journal* (twice); the Antitrust Lawyer of the Year by the New York Bar Association; named in the *Forbes* list of "America's Top 200 Lawyers" in 2024; Best Lawyers in America from 1987–2024; *Lawdragon* 500 Leading Lawyers; and an Eminent Practitioner by Chambers USA. He was named one of the Top 50 Big Law Innovators of the Last 50 Years by *The American Lawyer* in 2013.

6. Mr. Boies is the recipient of Honorary Doctor of Laws from the University of Redlands (2000), New York Law School (2007), University of New Hampshire School of Law (2013), and New York University (2013) and an Honorary Doctor of Letters from the Chicago Theological Seminary (2011). His awards include the Award of Merit from Yale Law School, the ABA Medal from the American Bar Association, the Vanderbilt Medal from New York University Law School, the Pinnacle Award from the International Dyslexia Association, the William Brennan Award from the University of Virginia, the Role Model Award from Equality Forum, the Lead by Example Award from the National Association of Women Lawyers, the Torch of Learning Award from the American Friends of Hebrew University, the Eisendrath Bearer of Light Award from the Union for Reform Judaism, and a Lifetime Achievement Award from the Mississippi Center for Justice.

7. Mr. Boies attended the University of Redlands (1960–62), and received a B.S. from Northwestern University (1964), an LL.B., magna cum laude from Yale University (1966), and an LL.M. from New York University (1967). He is a member of Phi Beta Kappa, a Fellow of the American College of Trial Lawyers and the International Academy of Trial Lawyers; and a Trustee of the National Constitution Center, Cold Spring Harbor Laboratory, New York University Law School Foundation and St. Luke's-Roosevelt Hospital Center. He is the author of numerous publications including *Courting Justice* (2004), *Redeeming the Dream* (with Ted Olson), and *Public Control of Business* (with Paul Verkuil), published by Little Brown in 1977. He has taught courses at New York University Law School and Cardozo Law School.

8. Mr. Boies served as Chief Counsel and Staff Director of the United States Senate Antitrust Subcommittee in 1978 and Chief Counsel and Staff Director of the United States Senate Judiciary Committee in 1979. In 1991–93, he was counsel to the Federal Deposit Insurance Corporation, recovering \$1.2 billion from companies who sold junk bonds to failed savings and loan associations. In 1998–2000, he served as Special Trial Counsel for the United States Department of Justice in its antitrust suit against Microsoft. *U.S. v. Microsoft Corp.*, 98-cv-1232 (TPJ) (D.D.C.). Mr. Boies also served as the lead counsel for former Vice-President Al Gore in

connection with litigation relating to the 2000 election Florida vote count. *Bush v. Gore*, 531 U.S. 98 (2000). As co-lead counsel for the plaintiffs in *Perry v. Brown*, he won the first judgment establishing the right to marry for gay and lesbian citizens under the U.S. Constitution. 671 F.3d 1052, 1096 (9th Cir. 2012).

9. Recently, Mr. Boies was Plaintiffs' counsel in *In re Blue Cross Blue Shield Antitrust Litigation*, 13-cv-20000 (N.D. Ala.). There, he and others argued that the Blue Cross Blue Shield business structure violated antitrust laws and stifled competition, resulting in the largest monetary settlement ever in an antitrust class action without a government investigation—\$2.67 billion—and significant injunctive relief to improve competition in the health care market. This settlement was recently upheld by the Eleventh Circuit. *In re Blue Cross Blue Shield Antitrust Litig.*, 85 F.4th 1070, 1102 (11th Cir. 2023). Mr. Boies also represented victims of Jeffrey Epstein's sex trafficking beginning in 2014. He sued, and recovered compensation from, Epstein and several of Epstein's collaborators prior to Epstein's arrest. Last year, Mr. Boies recovered \$290 million for Epstein's victims from JP Morgan Chase based on the bank's facilitating the sex trafficking by providing banking services to Epstein. *Doe I v. JP Morgan Chase & Co.*, 22-cv-10019, Dkt. 284 (S.D.N.Y. Nov. 13, 2023).

10. **Bill Carmody**: Mr. Carmody is a partner with the law firm of Susman Godfrey LLP. He is licensed to practice before all courts of the State of New York and is admitted *pro hac vice* in this matter. Dkt. 17. Mr. Carmody is a 1988 graduate of the University of Tulsa College of Law and a 1981 graduate of the United States Merchant Marine Academy.

11. Mr. Carmody has personally led many large and successful class actions. Recent examples include representing Yale University, the City of Baltimore, and the purchasers of trillions of dollars in LIBOR-based financial products, where he led the charge against 16 of the world's largest banks, having won certification of a national litigation class and having already settled with a number of the banks for \$781 million.

12. While *LIBOR* was moving forward, Mr. Carmody and his team also recovered \$220 million for a class of municipalities suing 10 banks and brokers for rigging municipal

1 derivative auctions. *In re: Municipal Derivatives Antitrust Litig.*, Case No. 08-md-2516  
2 (S.D.N.Y.).

3 13. Outside of the class action context, Mr. Carmody has secured victories for both  
4 plaintiffs and defendants in complex commercial cases. In the *Novartis* qui tam litigation, Mr.  
5 Carmody secured settlements totaling \$465 million in an anti-kickback case—the largest  
6 recovery ever in a case of its kind. On the defense side, in the *Fairfax* litigation, where an  
7 insurance company sought \$8 billion in damages from short sellers for allegedly conspiring to  
8 bring down the price of Fairfax’s stock, Mr. Carmody and his team secured a full dismissal of  
9 Susman Godfrey’s clients on summary judgment.

10 14. For decades, Mr. Carmody has also tried bet-the-company cases all around  
11 America on both sides of the “v.”. In February 2018, Uber was defending itself against trade-  
12 secret claims by Google/Waymo seeking roughly \$2 billion in its first case to be set for trial. Just  
13 months before trial, Uber hired Mr. Carmody, deciding it “was important to have someone in the  
14 leading position who was a pure trial lawyer—someone whose core skill was persuading a lay  
15 jury in a complex business case.”<sup>1</sup> Four days after he gave public and sealed opening statements,  
16 and after Mr. Carmody and his team crossed the plaintiff’s witnesses, Uber settled the case for a  
17 fraction of what Google/Waymo sought.

18 15. Only two-and-a-half months before the Uber trial, on the other side of the country,  
19 Mr. Carmody tried a contract case on the plaintiff’s side for General Electric in the Southern  
20 District of New York, where the jury sided unanimously with GE and the court entered a  
21 judgment valued at over \$160 million.

22 16. Mr. Carmody’s experience isn’t limited to any single area of law or type of case,  
23 and clients routinely bring him in on the eve of trial. In one case, Mr. Carmody was hired just 6  
24  
25

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26 <sup>1</sup> Christine Simmons, Attorney of the Year Finalist: Bill Carmody, N.Y.L.J., Oct. 5, 2018,  
27 available at  
28 <https://www.susmangodfrey.com/wp-content/uploads/2018/10/SG-Carmody-Video.pdf>.

1 days before trial to defend an insurer in a bet-the-company class action—and secured a  
 2 unanimous jury verdict for his client.<sup>2</sup>

3 17. Mr. Carmody is a member of the American Board of Trial Advocates, a fellow of  
 4 the Litigation Counsel of America, and a fellow of the American Bar Foundation. He is listed in  
 5 *The Best Lawyers in America* in seven categories, including Bet-the-Company Litigation. He is  
 6 also listed in *Who's Who Legal* in Commercial Litigation. His peers have voted him both a “New  
 7 York Super Lawyer” and a “Texas Super Lawyer,” and he’s listed in *The Legal 500*, in addition  
 8 to being selected among America’s Top 100 High Stakes Litigators by *America’s Top 100*. Mr.  
 9 Carmody was honored by *Law360* as one of its 10 Titans of the Plaintiffs Bar. He is also  
 10 perennially listed in the *Lawdragon* 500, and was lauded as one of *Lawdragon’s* 41 Legal  
 11 Legends.

12 18. Mr. Carmody was a top three finalist in 2018 for the *New York Law Journal’s*  
 13 Attorney of the Year. In 2019, *Lawdragon* selected Mr. Carmody as one of its Leading Plaintiff  
 14 Financial Lawyers and *The National Law Journal* selected him as one of its Masters of the  
 15 Courtroom – Winning Litigators. In 2021, 2022, and 2023, *Benchmark* placed Mr. Carmody on  
 16 its shortlist – of five to six lawyers – for National Trial Lawyer of the Year.

17 19. **John Yanchunis**: Mr. Yanchunis leads the class action section of Morgan &  
 18 Morgan, the largest plaintiffs’ firm in the nation. He is a member in good standing of the State  
 19 Bar of Texas and the Florida Bar, and is admitted *pro hac vice* for this case. Dkt. 20.

20 20. Mr. Yanchunis attended the University of Florida, where he was a member of the  
 21 Florida Blue Key and Omicron Delta Kappa, and he earned his Juris Doctor from the South Texas  
 22 College of Law in 1980, graduating magna cum laude after serving as Associate Editor-in-Chief  
 23 and Technical Editor of the South Texas Law Journal, and a member of the Order of the Lytae.  
 24 After graduating, Mr. Yanchunis completed a two-year clerkship with United States District  
 25 Judge Carl O. Bue, Jr., Southern District of Texas. Since then, Mr. Yanchunis has concentrated  
 26  
 27

28 <sup>2</sup> *Big Suits*, “*Beller et al. v. William Penn*,” *The American Lawyer*, Sept. 2007.

1 his practice, which spans over 43 years, on complex litigation, with a particular focus on  
2 consumer class actions for more than two-thirds of this time.

3 21. In 2014, Mr. Yanchunis was recognized by the *National Law Journal* as a  
4 trailblazer in the area of privacy litigation, and in 2019, 2020, and 2023, he was recognized by  
5 *Law360* as one of very few MVPs in the United States in the area of privacy and cyber security  
6 litigation. Just last year, Mr. Yanchunis was also recognized by *Law360* as a Titan of the  
7 Plaintiffs' bar. As a result of his extensive experience in class litigation, including privacy and  
8 data breach litigation, Mr. Yanchunis regularly lectures nationally and internationally at seminars  
9 and symposia regarding class litigation and privacy litigation.

10 22. Mr. Yanchunis tried one of the largest and longest insurance coverage cases in  
11 U.S. history, which was filed in 1991 by the Celotex Corporation and its subsidiary, Carey  
12 Canada, Inc. During the seventeen years the case was pending, Mr. Yanchunis served as lead  
13 counsel for several insurance companies regarding coverage for asbestos and environmental  
14 claims, and after obtaining judgment in his clients' favor, he continued serving as lead counsel  
15 on appeal. In 2005, he was selected to serve as lead counsel to the Florida Department of  
16 Financial Services and the Florida Department of Insurance Regulation during investigations into  
17 antitrust activity and the unlawful payment of undisclosed compensation to insurance brokers. In  
18 this role, Mr. Yanchunis served as the lead regulator counsel and worked with a core group of  
19 state Attorneys General from the National Association of Attorneys General. Between the  
20 litigation produced by these efforts, and related investigations into misconduct, Mr. Yanchunis  
21 helped net millions in restitution for Florida consumers, and bring about significant changes in  
22 the way commercial insurance is sold, both in Florida and across the country.

23 23. Mr. Yanchunis began his work in privacy litigation in 1999, with the filing of *In*  
24 *re Doubleclick Inc. Privacy Litigation*, which alleged privacy violations based on the placement  
25 of cookies on hard drives of internet users. 154 F. Supp. 2d 497 (S.D.N.Y. 2001). In 2003, Mr.  
26 Yanchunis served as co-lead counsel in the successful prosecution and settlement of privacy class  
27 action cases involving the protection of privacy rights of more than 200 million consumers under  
28



the Driver's Protection Privacy Act (DPPA) against many of the world's largest data and information brokers, including Experian, R.L. Polk, Acxiom, and Reed Elsevier (which owns Lexis/Nexis). *See Fresco v. Automotive Directions, Inc.*, No. 03-cv-61063-JEM (S.D. Fla.), and *Fresco v. R.L. Polk*, No. 07-cv-60695-JEM (S.D. Fla.). Following this, he served as co-lead counsel in additional DPPA class cases, *Davis v. Bank of America*, No. 05-cv-80806 (S.D. Fla.) (\$10 million class settlement), and *Kehoe v. Fidelity Fed. Bank and Trust*, No. 03-cv-80593 (S.D. Fla.) (\$50 million class settlement).

24. Mr. Yanchunis has also been appointed to and served in leadership positions in several multidistrict litigation efforts related to privacy and data breaches, including: *In re: Capital One Consumer Data Security Breach Litigation*, No. 1:19-MD-2915-AJT (E.D. Va.) (co-lead counsel) (settlement for \$190,000,000 approved); *In re Yahoo! Inc. Customer Data Security Breach Litigation*, No. 5:16-MD-02752-LHK (N.D. Cal.) (lead counsel) (settlement for \$117,500,000.00 approved for US residents and Israeli citizens); *In re The Home Depot, Inc. Consumer Data Security Data Breach Litigation*, No. 1:14-md-02583-TWT (N.D. Ga.) (co-lead counsel) (settlement for \$29,025,000 approved); *In re: Equifax, Inc. Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.) (Plaintiffs' Steering Committee) (settlement for \$380,500,000 approved for 145 million consumers); *In re: U.S. Office of Personnel Management Data Security Breach Litigation*, 1:15-mc-01394-ABJ (D.D.C.) (Executive Committee) (settlement for \$60,000,000 approved); *In re: Target Corporation Customer Data Security Breach Litigation*, MDL No. 2522 (D. Minn.) (Executive Committee member) (settlement on behalf of a class of approximately 100 million consumers).

25. Mr. Yanchunis was also appointed to and served as co-lead counsel in *Adkins v. Facebook, Inc.*, No. 3:18-cv-05982 (N.D. Cal.), which involved a data security incident with one of the world's largest technology companies. Mr. Yanchunis litigated that case through contested class certification, securing an injunctive relief class that resulted in a substantial settlement, where Facebook substantively revised its data security practices.

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1                               **2. Proposed Settlement.**

2           26. We collectively have over one hundred years of experience litigating complex  
3 commercial cases and class actions. That experience and knowledge guided our approach to  
4 litigating and settling this case, and it is our view that the Settlement is exceptional and in the  
5 best interest of the approximately 136 million Americans whose private data Google  
6 impermissibly collected and monetized.

7           27. This Settlement resulted from nearly four years of hard-fought litigation to obtain  
8 relevant discovery and important orders from the Court, all of which were necessary to secure  
9 expansive relief for the classes. Google took the position that any efforts to settle prior to the  
10 summary judgment ruling would have been “futile,” and the settlement negotiations only began  
11 after the Court issued its summary judgment ruling.

12           28. The Settlement followed many months of arm’s-length negotiations between the  
13 parties facilitated by former United States District Judge Layn R. Phillips, a nationally recognized  
14 mediator. These negotiations were conducted over several months by experienced counsel with  
15 a full understanding of the strengths and weaknesses of their respective cases. That understanding  
16 was informed by, among other things, the Court’s rulings on two motions to dismiss, class  
17 certification, two motions for sanctions, summary judgment, *Daubert* motions, jury instructions,  
18 motions in *limine*, and essentially all pretrial matters. We were prepared to try this case to verdict.

19           29. Judge Phillips supervised an initial, in-person mediation session in New York on  
20 September 29, 2023. Mr. Carmody and Mr. Yanchunis attended that session in-person, while Mr.  
21 Boies joined by Zoom because he had just finished another trial on the other side of the country.  
22 The parties made some progress during that full-day session, but many more sessions were  
23 needed to reach an agreement.

24           30. As summarized in pretrial filings, Google’s initial position was that no injunctive  
25 relief was warranted, but that, at most, any relief should be limited to disclosure changes. Dkt.  
26 1029 at 20–23. Class Counsel insisted that injunctive relief to remedy past violations was  
27

1 essential, and, with the benefit of the Court's several rulings, ultimately achieved the historic  
2 settlement that we are presenting for the Court's consideration.

3 31. Mediation continued for several months, with the parties exchanging numerous  
4 proposals and counter-proposals for injunctive relief. Judge Phillips and/or his staff supervised  
5 dozens of additional mediation sessions, each over Zoom, to facilitate the parties' discussions.  
6 These sessions took place in October, November, and December at all times of day, including  
7 weekends, prioritizing the classes' interests and securing robust injunctive relief. The parties did  
8 not agree upon a Term Sheet until December 26, 2023, almost three months after beginning the  
9 mediation process. It then took many additional months of negotiations to finalize the settlement  
10 agreement.

11 32. On balance, considering all the circumstances and risks both sides faced were the  
12 case to continue to trial, this Settlement is an excellent result for the certified classes and the  
13 relief they (and all Americans) will receive as a result of our efforts.

14 33. As detailed in the Motion, the Settlement contains valuable injunctive relief that  
15 provides benefits for all class members and anyone who subsequently uses Google's Chrome  
16 browser.

17 34. At no point during mediation did the parties discuss or negotiate any amount of  
18 attorneys' fees and costs, and there is no clear sailing provision in this agreement. We prioritized  
19 the Class's interests by focusing on obtaining the most expansive injunctive relief possible  
20 without trading any portion of that relief for any fees and costs. We also secured a mutual  
21 agreement not to appeal the Court's decision on the amount of attorneys' fees and costs so that  
22 the class will promptly benefit from this injunctive relief.

23 35. We respectfully ask that the Court approve the Settlement.

24 Dated: April 1, 2024

25  
26 /s/ David Boies  
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